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10 craigslist, Inc.,

NO. C 08-05067 JW

11 v. Plaintiff,

**ORDER TO PRODUCE FURTHER  
EVIDENCE OF STATUTORY DAMAGES  
ASSOCIATED WITH MOTION FOR  
DEFAULT JUDGMENT**

12 Paul Hubert, et al.,

13 Defendants.

14 \_\_\_\_\_ /

15 A hearing on Plaintiff's Motion for Default Judgment is set for March 8, 2010.<sup>1</sup> Plaintiff  
16 seeks a judgment of default against Defendant Paul Hubert, in addition to injunctive and monetary  
17 damages and attorney fees and costs. (Motion at 17-21.)18 The Court finds that it has insufficient evidence before it to make a reasonable determination  
19 of statutory damages under the Digital Millennium Copyright Act ("DMCA"). Defendant presents  
20 screen shots indicating that craygo.com sold bundles of "CAPTCHA credits" ranging in price from  
21 1000 for \$150 to 100,000 for \$1000.<sup>2</sup> The Court finds unpersuasive Plaintiff's contention that each  
22 CAPTCHA credit that craygo.com offers for sale on its website constitutes a separate offer to  
23 circumvent Plaintiff's security wall. (See Motion at 20.) Instead, the Court is inclined to measure  
24 each offer of a bundle of credits as a single infringement for purposes of measuring statutory  
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<sup>1</sup> (See Plaintiff Craigslist, Inc.'s Motion for Default Judgment Against Paul Hubert, hereafter, "Motion," Docket Item No. 53.)

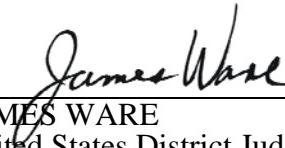
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<sup>2</sup> (See Declaration of David E. Weeks in Support of Plaintiff Craigslist, Inc.'s Motion for Default Judgment Against Defendant Paul Hubert, Ex. 4, Docket Item No. 56.)

1 damages. Since the Court is not bound to accept as true Plaintiff's allegations regarding the amount  
2 of damages, Plaintiff must provide the Court with evidence of how many bundles of CAPCHA  
3 credits Defendant offered for sale in order to calculate statutory damages pursuant to the DMCA.

4 Accordingly, on or before **March 2, 2010**, Plaintiff shall file with the Court additional  
5 evidence of the number of bundles of CAPCHA credits Defendant offered for sale.

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7 Dated: February 25, 2010

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JAMES WARE  
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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Dated: February 25, 2010

Richard W. Wieking, Clerk

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By: /s/ JW Chambers

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Elizabeth Garcia

Courtroom Deputy

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